

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ANSELM CADDELL,

Case No. 1:19-cv-91

Plaintiff,

Cole, J.

vs.

Bowman, M.J.

JOYCE CAMPBELL, et al.,

Defendants.

**REPORT AND RECOMMENDATION  
AND ORDER**

On February 12, 2020, the undersigned issued a Report and Recommendation (R&R) that: Defendants City of Fairfield and Joyce A. Campbell's motions to dismiss (Docs. 9, 12) be denied; (2) Defendant Richard Jones' motion for judgment on the pleadings (Doc. 16) be denied; and (3) denying Plaintiff's motion to strike (Doc. 19) (See Doc. 29). The parties timely filed objections to the R&R (Docs. 32, 34, 40). The R&R remains ripe for review and pending before the District Judge.

Thereafter, on July 23, 2020, the Court granted Plaintiff leave to file a second amended class action complaint adding Caleb Lawson as an additional named Plaintiff and class representative. (Doc. 44). The second amended class action complaint was filed that same day. (Doc. 45). Other than adding Mr. Lawson, the second amended complaint introduces no new legal issues and the theory of Plaintiffs' case remained unchanged.

Defendant Joyce Campbell then filed a motion to dismiss the Second Amended Complaint, incorporating all arguments previously set forth in her Motion to Dismiss (Doc.

12), as well as her Reply in Support of Motion to Dismiss (Doc. 20), and her objections to the Magistrate's Report and Recommendation. (Doc. 34). (See Doc. 50). Plaintiffs' responded to Defendant Campbell's second motion to dismiss by also incorporating their arguments in opposition to Defendant Campbell's prior motion as set forth in the Response in Opposition to Motions to Dismiss as well as the Omnibus Response to Defendants' Objections to the Report and Recommendation (Docs. 15, 40). (See Doc. 52). Plaintiffs assert that all of the arguments previously raised apply equally to Defendant Campbell's current motion and support its denial. (Doc. 52).

Defendant Richard Jones and Defendant City of Fairfield also filed motions for judgment on the pleadings as to Plaintiffs' second amendment class action complaint. (See Docs. 51, 53). Defendant Jones' motion incorporates the same arguments set forth in his prior Motion for Judgment on the Pleadings (Doc. 16) and associated filings, and renews that Motion as to the original Plaintiff Anselm Caddell and asserting the same arguments as to the newly added Plaintiff Caleb Lawson. As set forth in those filings, Defendant Jones argues that the claims of both Plaintiffs should be dismissed for purely legal reasons that should be decided on the pleadings. (Doc. 51).

The City of Fairfield seeks judgment on the pleadings as to all of Plaintiff Anselm Caddell's claims asserted in the Second Amended Class Action Complaint (Doc. 45). Defendant City of Fairfield motion incorporates all dispositive arguments it previously made seeking relief pursuant to Fed. R. Civ. P. 12(b)(6) against the First Amended Class Action Complaint (Doc. 6). This includes all arguments asserted in Defendant's Motion to Dismiss (Doc. 9) and its Reply in support thereof (Doc. 18). These arguments only address the claims of Plaintiff Anselm Caddell. Defendant City of Fairfield is not now

seeking dismissal of the claims of newly identified Plaintiff Caleb Lawson whose claims are the only difference between the First and Second Amended complaints.

Plaintiffs responded to Defendant Jones' and Defendant City of Fairfield's second motions for judgment on the pleadings by also incorporating their prior arguments in opposition to Defendants prior motions as set forth in the Omnibus Response in Opposition to Motions to Dismiss filed by Defendants Campbell and City of Fairfield as well as the Omnibus Response to Defendants' Objections to the Report and Recommendation (Doc. 15, 40). (See Doc. 54).

The undersigned recognizes that the filing of an amended complaint generally moots a pending motion to dismiss. *Yates v. Applied Performance Techs., Inc.*, 205 F.R.D. 497, 499 (S.D.Ohio 2002). See also *Hartman*, 2007 WL 915193, at \*6 (holding that defendants' motions to dismiss the original complaint and the first amended complaint were moot given the subsequent filing of a second amended complaint)); *Pethtel v. Washington County Sheriff's Office*, No. 2:06-799, 2007 WL 2359765, at \*5 (S.D.Ohio Aug.16, 2007) ("because an amended complaint supersedes the original complaint, the filing of an amended complaint normally moots a motion to dismiss the original complaint").

Although the prior R&R is technically moot due to the filing of the second amended complaint, the same issues are ripe for review based upon the refiled motion to dismiss and motions for judgment on the pleadings, all of which raise the same arguments raised in their initial motions. Therefore, the analysis in the prior R&R also applies to the newly filed motions directed to the second amended complaint.

Accordingly, for the reasons stated in the pending R&R (Doc. 29) which is incorporated herein, it is **RECOMMENDED** that: 1) Defendant Campbell's motion to dismiss (Doc. 50) be **DENIED**; 2) Defendant Jones' motion for judgment on the pleadings (Doc. 51) be **DENIED**; and 3) Defendant City of Fairfield's motion for judgment on the pleadings (Doc. 35) be **DENIED**.

Additionally, based on the agreement of parties reached during a September 9, 2020 phone conference, it is further **ORDERED** that no objections shall be filed to this R&R, thus making it immediately ripe for review.

s/ Stephanie K. Bowman  
Stephanie K. Bowman  
United States Magistrate Judge